IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6317 of 2007()

C.R.NO.10/07 OF KOLAZHY EXCISE RANGE
CRLMC.2294/2007 of DISTRICT COURT, THRISSUR

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PETITIONER/ACCUSED

CHANDRAN, AGED 50 YEARS
S/O. ITTAPPA ANDI, VANDERIKATTIL HOUSE,
MUNDUR ANDAPARAMBU DESOM,
ANJOOR VILLAGE, THRISSUR.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN

RESPONDENTS: STATE

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6317 of 2007

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Dated this the 17th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to keep in his possession and transporting 10 litres of arrack. On seeing the Excise party he allegedly abandoned the article and ran away on 16.9.2007. The petitioner has not been arrested so far.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel submits that the detecting officials had seen the petitioner allegedly within a distance of 20 metres and the theory that they could not apprehend him is artificial.

3. The learned Prosecutor opposes the application. He submits that the contemporaneous seizure mahazar shows the complicity of the petitioner. The occurrence report also supports the same. There is absolutely no reason to suspect that the allegations raised are false. The petitioner may be directed to surrender before the Investigating

Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course, submits the Prosecutor.

4. Having considered all the relevant inputs, I am unable to perceive any features in this case which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. I am satisfied that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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